

Department of Justice

§ 2.38

Severity rating in the new criminal behavior (from § 2.20)	Guideline range
Category One	<=8 months.
Category Two	<=10 months.
Category Three	12-16 months.
Category Four	20-26 months.
Category Five	36-48 months.
Category Six	52-64 months.
Category Seven	64-92 months.
Category Eight	120+ months.

NOTE: Grade unlawful possession of a firearm or explosives in a prison facility, other than a community corrections center, as Category Six. Grade unlawful possession of a firearm in a community corrections center as Category Four. Grade unlawful possession of a dangerous weapon other than a firearm or explosives (e.g., a knife) in a prison facility or community corrections center as Category Three.

(3) *New criminal behavior in the community* (e.g., while on pass, furlough, work release, or on escape). In such cases, the guidelines applicable to re-parole violators under § 2.21 shall be applied, using the new offense severity (from § 2.20) and recalculated salient factor score (such score shall be recalculated as if the prisoner had been on parole at the time of the new criminal behavior). The time required pursuant to these guidelines shall be added to the time required by the original presumptive or effective date.

NOTE: Offenses committed in a prison or in a community corrections center that are not limited to the confines of the prison or community corrections center (e.g., mail fraud of a victim outside the prison) are graded as new criminal behavior in the community.

(b) The above are merely guidelines. Where the circumstances warrant, a decision outside the guidelines (above or below) may be rendered provided specific reasons are given. For example, a substantial period of good conduct since the last disciplinary infraction in cases not involving new criminal conduct may be treated as a mitigating circumstance.

[45 FR 59871, Sept. 11, 1980, as amended at 51 FR 32072, Sept. 9, 1986; 52 FR 5763, Feb. 26, 1987; 52 FR 17399, May 8, 1987; 64 FR 59623, Nov. 3, 1999; 68 FR 41530, July 14, 2003]

§ 2.37 Disclosure of information concerning parolees; Statement of policy.

(a) Information concerning a parolee under the Commission's supervision

may be disclosed to a person or persons who may be exposed to harm through contact with that particular parolee if such disclosure is deemed to be reasonably necessary to give notice that such danger exists.

(b) Information concerning parolees may be released by a Chief U.S. Probation Officer to a law enforcement agency (1) as deemed appropriate for the protection of the public or the enforcement of the conditions of parole or (2) pursuant to a request under 18 U.S.C. 4203(e).

(c) Information deemed to be "public sector" information may be disclosed to third parties without the consent of the file subject. Public sector information encompasses the following:

- (1) Name;
- (2) Register number;
- (3) Offense of conviction;
- (4) Past and current places of incarceration;
- (5) Age;
- (6) Sentence data on the Bureau of Prisons sentence computation record (BP-5);
- (7) Date(s) of parole and parole revocation hearings; and
- (8) The decision(s) rendered by the Commission following a parole or parole revocation proceeding, including the dates of continuances and parole dates. An inmate's designated future place of incarceration is not public information.

[47 FR 13521, Mar. 31, 1982, as amended at 52 FR 33408, Sept. 3, 1987; 63 FR 25772, May 11, 1998]

§ 2.38 Community supervision by U.S. Probation Officers.

(a) Pursuant to sections 3655 and 4203(b)(4) of title 18 of the U.S. Code, U.S. Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to persons released by parole or as if on parole (mandatory release) under the Commission's jurisdiction.

(b) A parolee may be transferred to a new district of supervision with the permission of the probation officers of

§ 2.39

28 CFR Ch. I (7–1–16 Edition)

both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

[44 FR 3409, Jan. 16, 1979]

§ 2.39 Jurisdiction of the Commission.

(a) Jurisdiction of the Commission over a parolee shall terminate no later than the date of expiration of the maximum term or terms for which he was sentenced, except as provided by § 2.35, § 2.43, or § 2.52.

(b) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

(c) Upon the termination of jurisdiction, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

[42 FR 39809, Aug. 5, 1977, as amended at 48 FR 22919, May 23, 1983]

§ 2.40 Conditions of release.

(a)(1) *General conditions of release and notice by certificate of release.* All persons on supervision must follow the conditions of release described in § 2.204(a)(3) through (6). These conditions are necessary to satisfy the purposes of release conditions stated in 18 U.S.C. 4209. Your certificate of release informs you of these conditions and special conditions that we have imposed for your supervision.

(2) *Refusing to sign the certificate of release.* (i) If you have been granted a parole date and you refuse to sign the certificate of release (or any other document necessary to fulfill a condition of release), we will consider your refusal as a withdrawal of your application for parole as of the date of your refusal. You will not be released on parole and you will have to reapply for parole consideration.

(ii) If you are scheduled for release to supervision through good-time deduction and you refuse to sign the certificate of release, you will be released but you still must follow the conditions listed in the certificate.

(b) *Special conditions of release.* We may impose a condition of release other than a condition described in § 2.204(a)(3) through (6) if we determine

that imposing the condition is reasonably related to the nature and circumstances of your offense or your history and characteristics, and at least one of the following purposes of criminal sentencing: The need to deter you from criminal conduct; protection of the public from further crimes; or the need to provide you with training or correctional treatment or medical care. In choosing a condition we will also consider whether the condition involves no greater deprivation of liberty than is reasonably necessary for the purposes of deterrence of criminal conduct, protection of the public from crime and offender rehabilitation. We list some examples of special conditions of release at § 2.204(b)(2).

(c) *Participation in a drug-treatment program.* If we require your participation in a drug-treatment program, you must submit to a drug test within 15 days of your release and to at least two other drug tests, as determined by your supervision officer. If we decide not to impose the special condition on drug-treatment, because available information indicates you are a low risk for substance abuse, this decision constitutes good cause for suspending the drug testing requirements of 18 U.S.C. 4209(a). You must pass all pre-release drug tests administered by the Bureau of Prisons before you are paroled. If you fail a drug test your parole date may be rescinded.

(d) *Changing conditions of release.* After your release, we may change or add to the conditions of release if we decide that such action is consistent with the criteria described in paragraph (b) of this section. In making these changes we will use the procedures described in § 2.204(c) and (d). You may appeal our action as provided in §§ 2.26 and 2.220.

(e) *Application of release conditions to an absconder.* If you abscond from supervision, you will stop the running of your sentence as of the date of your absconding and you will prevent the expiration of your sentence. You will still be bound by the conditions of release while you are an absconder, even after the original expiration date of your sentence. We may revoke your release for a violation of a release condition